IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 719 of 2006

Date of Decision: 17th July, 2007.

Anjana Mahindroo and others	Petitioners
Versus	
State of H.P. and others	Respondents

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]?

For the petitioners: Mr.C.N.Singh, Advocate.

For the respondents: Mr.C.B.Singh, Dy. Advocate General.

Sanjay Karol, J. (Oral)

Learned counsel for the petitioners has assailed the order dated 29th December, 2003 passed by Financial Commissioner-cum-Secretary (Revenue) – respondent No.2 on the ground that report of the Deputy Commissioner dated 16th June, 2003 could not have been relied upon in the absence of the same not being made available to the petitioners. The fact that the report was not supplied to the petitioners is not disputed.

Petitioners claim of giving of alternate land in terms of grant has been turned down purely on the ground that terms of allotment of land made to Shri Kudan Lal, predecessor-in-interest of petitioners in December, 1968, duly recorded in Patta in the year 1970, were not complied with. The perusal of the record shows that land allotted to petitioners was embroiled in litigation for a considerable period of time. From the impugned order it is

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[1] Whether the reporters of Local Papers are allowed to see the Judgment?

also evident that the Deputy Commissioner himself had recommended the grant of alternate land to petitioner in the year 2003.

In the reply filed to the present writ petition, respondents have also stated as under:

> "It is the petitioners who have requested that the land comprising in Khasra No.508 and 509 of village Chadyara be given to them. The land in exchange can only be granted in the same revenue estate where the applicant is the resident. As such the Financial Commissioner has rightly rejected the application of the petitioners for grant of land in exchange in another revenue estate".

Keeping in view the facts and circumstances of the case, I am of the considered view that the entire material relied upon by the authority ought to have been supplied to petitioners before arriving at the ultimate conclusion. In these circumstances, in the interests of justice the order dated 29th December, 2003 passed by respondent No.2 is set aside and respondents are directed to take a decision after affording due opportunity to the petitioner within a period of three months by passing a reasoned order.

It shall be open for the petitioners to place such other material as may be relevant. For taking the decision, the authority shall take into account the entire material as also the material placed before this Court as the decision is not based on the merits of the controversies raised by the parties.

The writ petition is disposed of accordingly.

17th July, 2007
(C)

(Sanjay Karol),
Judge